

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

S. O'REAR,

Plaintiff,

-v-

ARMANDO DIAZ ET AL.,

Defendants.

24 Civ. 1669 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

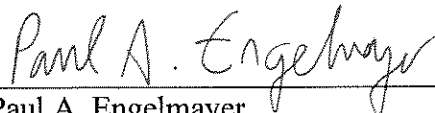
On April 5, 2024, defendants Merkley+Partners, Inc. and Omnicom Group, Inc. (“the Corporate Defendants”) moved to dismiss the Complaint. Dkt. 32.

The Court is mindful that plaintiff has moved to disqualify one of the Corporate Defendants’ counsel, Maureen McLoughlin, Esq., and the law firm with which she is affiliated, Davis & Gilbert LLP. Dkt. 17. The Court’s assessment is that the pendency of the motion to disqualify does not preclude the Court from considering the motion to dismiss, and that briefing on the motion to dismiss may therefore proceed in the ordinary course. That is because the basis for the disqualification motion arises from Ms. McLoughlin’s ostensible dual role as a fact witness to relevant events, a circumstance which would not appear to preclude her law firm from moving, on the face of the Complaint, to dismiss under Federal Rule of Civil Procedure 12(b)(6). The Court therefore today is issuing a standard amend-or-oppose order, directing plaintiff, by dates certain, either to oppose the motion to dismiss or amend the complaint.

In the event that plaintiff takes a different view on this point, any letter to such effect is due Wednesday, April 10, 2024, and any opposition by the Corporate Defendants is due Monday, April 15, 2024. The Court does not invite a reply. For avoidance of doubt, the

submission of any such letter by plaintiff will not stay the deadlines set in the amend-or-oppose order. Rather, on review of such a letter, the Court will promptly determine whether a stay is warranted.

SO ORDERED.



Paul A. Engelmayer
United States District Judge

Dated: April 5, 2024
New York, New York